

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'E' : NEW DELHI)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
and
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.675/Del./2014
(ASSESSMENT YEAR : 2007-08)**

ACIT, Circle 3 (1),
New Delhi.

vs.

Shri Mukesh Jain,
25, Central Lane,
Bengali Market,
New Delhi – 110 001.

(PAN : AAFPJ6204L)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Raja Kumar, Advocate
REVENUE BY : Shri Rajesh Kumar, Senior DR

Date of Hearing : 30.01.2017

Date of Order : 30.01.2017

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The Appellant, Assistant Commissioner of Income-tax, Circle 3 (1), New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal sought to set aside the impugned order dated 14.11.2013 passed by the Commissioner of Income-tax (Appeals)-XXI, New Delhi qua the assessment year 2007-08.

2. Perusal of the aforesaid appeal filed by the Revenue apparently show that the same is having low tax effect as per

CBDT Circular No.21/2015 dated 10th December, 2015 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.10,00,000/- and this factual position has been fairly conceded by the Ld. Senior DR.

3. We have heard ld. Senior DR on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted as under:

"3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

S.No.	Appeals in Income-tax matters	Monetary Limit (Rs.)
1	Before Appellate Tribunal	10,00,000
2	Before High Court	20,00,000
3	Before Supreme Court	25,00,000

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn / not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

4. The contention of Ld. Senior D.R. that he needs some time to procure the report from the Assessing Officer to work out the tax effect, is not tenable because when apparently, the appeal in

question is covered under CBDT Circular No.21/2015 dated 10th December, 2015 (supra), the Revenue cannot import the facts within the knowledge of the Assessing Officer to further prolong the matter. However, in case any fact which is otherwise not on record, warrants the restoration of the present appeal, the Revenue is at liberty to approach the Tribunal under relevant provisions of law.

5. In view of the CBDT Circular No.21 dated 10.12.2015 having retrospective effect and what has been discussed above, we are of the considered view that the aforesaid appeal is not maintainable because of low tax effect i.e. less than Rs.10,00,000/- hence, the aforesaid appeal filed by the Revenue is hereby dismissed having been become infructuous.

Order pronounced in open court on this 30th day of January, 2017.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 30th day of January, 2017
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-XXI, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**